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In re application of:

Regime HELIBRONN

Examiner: Alireza Salimi

Serial Number: 09/720,252

Art Unit: 1648

Filed: April 12, 2001

Atty. Docket No. 100564-00044

For: RECOMBINANT HERPES VIRUSES FOR PREPARING RECOMBINANT ADENO-ASSOCIATED VIRUSES

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patent
Washington, D.C. 20231

August 23, 2002

Sir:

In response to the Restriction Requirement mailed July 25, 2002, the applicants hereby elect Group I, namely claims 1-13, 16 and 17 drawn to a recombinant herpesvirus. The election is made with traverse, as it is believed that the Examiner has examined the wrong claims in making this restriction requirement.

The applicants submitted new claims 1 and 14 during International Preliminary Examination, and copies of these new claims were submitted with the U.S. national phase entry papers. A further copy of these new claims 1 and 14 is attached to this paper for the Examiner's convenience.

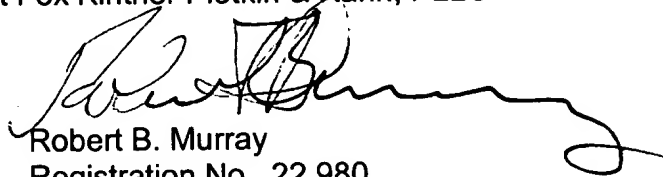
The Restriction Requirement appears to be based on the Examiner's allegation that the invention defined in claim 1 was known in the prior art (Conway et al), which discloses a HSV-amplicon expressing rep and cap. There are substantial disadvantages of this amplicon compared to the claimed recombinant Herpes virus. Conway fails to teach the subject matter of new claims 1 and 14, so that the Examiner's basic premise as to lack of a

special technical feature within the meaning of PCT Rule 13.2 appears to be in error. Accordingly, it is requested that the Restriction Requirement be withdrawn, and all claims proceed to examination on the merits.

Early and favorable action is awaited.

In the event any fees are required, please charge our Deposit Account No. 01-2300.

Respectfully submitted,
Arent Fox Kintner Plotkin & Kahn, PLLC



Robert B. Murray
Registration No. 22,980

1050 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036-5339

(202) 857-6000

RBM/cb